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SIPDIS

SENSITIVE

DEPT. FOR PRM, IO, EUR/SE AND NEA/NGA

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TAGS: [PREL](#) [PREF](#) [PHUM](#) [PTER](#) [TU](#) [IZ](#)

SUBJECT: TURKISH REFUGEES IN IRAQ: BROAD CONSENSUS ON
CONTENT OF AGREEMENT REACHED BETWEEN TURKEY, IRAQ, US AND
UNHCR

REF: A. STATE 5739

[1](#)B. 03 ANKARA 7213

[1](#)1. (SBU) After three days of intense, hard-fought negotiations in Ankara January 20-22 between Turkish, Iraqi/CPA, US and UNHCR reps on a draft agreement for the repatriation of Turkish refugees from Iraq, the parties reached broad consensus on the content of an agreement. A text reflecting that consensus was negotiated (text at para 3) but was neither signed nor initialed, pending final approval from the negotiating parties. The UNHCR and Iraqi reps were prepared to sign the document as is. Turkey asked for a letter from the Secretary of State pledging the USG's support for the implementation of the agreement for its duration before Turkish reps would sign. L and CPA General Counsel are currently reviewing the text in the context of the Turkish request. The parties agreed that any required changes be circulated and agreed by fax, e-mail or diplomatic correspondence, and that signatures would be done by fax if/when final approvals are forthcoming.

[1](#)2. (U) The Turkish side was represented by MFA Deputy Undersecretary Nabi Sensoy on Jan. 20 and by Director General for Multilateral Affairs Amb. Daryal Batibay Jan. 21-22, as well as Deputy DG for Multilateral Affairs Tunc Ugdul and Multilateral Affairs Deskoff Alp Ay. The Iraqi/CPA delegation included Minister for Displacement and Migration Mohammed Jassim Khudayir al-Otbee, Ministry of Displacement staffer Mohammed Abdulaziz Hussein, CPA Senior Advisor to the Ministry of Displacement and Migration Jose Lamago and CPA Deputy Senior Advisor to the Ministry of Displacement and Migration Jennifer Johnson. The UNHCR was represented by Assistant High Commissioner for Refugees Kamel Morjane (Jan. 21 only), Europe Director Raymond Hall, Deputy Director of International Protection Wilbert van Hovell, Turkey Rep Gesche Karrenbrock, and Deputy Turkey Rep Steve Corliss. The US delegation included Assistant Secretary for Population, Refugees and Migration Arthur Dewey, PRM Officer Andy Wyllie and Emboffs.

[1](#)3. (SBU) The negotiated text under consideration reads as follows:

VOLUNTARY REPATRIATION AGREEMENT

The Government of Turkey, the Authorities in Iraq and the United Nations High Commissioner for Refugees (UNHCR) (hereinafter referred to as the &the Parties8),

(a) Recognizing that the right of all citizens to leave and to return to their country is a basic human right enshrined, inter alia, in Article 13(2) of the 1948 Universal Declaration of Human Rights and Article 12 of the 1966 International Covenant on Civil and Political Rights;

(b) Recalling that the United Nations General Assembly Resolution 428 (V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the High Commissioner the function of providing international protection to refugees and of seeking permanent solutions for the problems of refugees, inter alia, by promoting and facilitating their voluntary repatriation and re-integration in their country of origin;

(c) Recognizing that voluntary repatriation, where feasible, constitutes the preferred durable solution for the problems of refugees, and that the attainment of this solution requires that refugees are able to return in conditions of safety and dignity;

(d) Noting that Conclusions 18 (XXXI) and 40 (XXXVI) of the Executive Committee of the High Commissioner,s Programme constitute internationally accepted principles and standards governing the voluntary repatriation of refugees;

(e) Noting with appreciation the stated willingness of the Government of Turkey to welcome back, in conditions of safety and dignity, all Turkish citizens present as refugees in Iraq, who wish to repatriate to and rebuild their lives in Turkey;

(f) Agreeing on the closure of the relevant refugee camps in Iraq and in particular the Makhmour camp by finding appropriate durable solutions for the Turkish citizens present as refugees in Iraq who do not avail themselves of the voluntary return process;

(g) Recognizing the need to define the specific procedures and modalities for the voluntary repatriation and reintegration of refugees from Turkey currently in Iraq with the assistance of UNHCR, as may be supported by other United Nations agencies and intergovernmental organizations, and where appropriate and with the consent of the relevant Party, by non-governmental organizations;

Have agreed as follows:

ARTICLE 1

Definitions

For the purpose of this Agreement,

1. The term "Authorities in Iraq" shall, for the purpose of implementing this Agreement, comprise the Governing Council of Iraq and its successor(s), noting that the Authorities in Iraq will fully implement this Agreement in close coordination with the Coalition Provisional Authority during its mandate.

2. The term "refugee" shall mean any Turkish citizen, as defined in the Turkish Law on Nationality, who is living as a refugee in Iraq.

3. The term "returnee" shall mean any refugee as defined in paragraph 2 of this Article, who has voluntarily returned to Turkey pursuant to this Agreement.

ARTICLE 2

Establishment of a Voluntary Repatriation Commission

A Voluntary Repatriation Commission is hereby established by the Parties.

ARTICLE 3

Composition of the Commission

1. The Commission shall comprise three members; each of the Parties shall designate a member. The delegation of Iraq will include a representative of the Coalition Provisional Authority throughout the duration of the Authority,s mandate.

2. Any Member of the Commission may be accompanied to its meetings by advisers.

3. Where a Member is unable to attend to any business of the Commission, that Member shall designate a substitute.

ARTICLE 4

Role and Function of the Commission

The Commission shall consider and agree upon by consensus or advise the Parties on such matters or measures as may be necessary for the implementation of this agreement.

ARTICLE 5

Meetings of the Commission

1. Meetings of the Commission may be convened whenever necessary and at such venue as may be agreed upon.
2. The Commission shall adopt its own Rules of Procedure.

ARTICLE 6

Ad Hoc Arrangements/Liaison Officers

The Parties shall designate Liaison Officers at their respective diplomatic Missions or, in the case of UNHCR, offices in Ankara, Baghdad and Geneva with powers to deal with unforeseen operational issues on an ad hoc basis. Liaison Officers will also be designated by the Coalition Provisional Authority throughout the duration of its mandate.

ARTICLE 7

Voluntary Character of Repatriation

1. The Parties hereby reaffirm that the repatriation of refugees relevant to Turkey shall only take place at their freely expressed wish based on their full knowledge of relevant facts.
2. The Authorities in Iraq shall ensure that the refugees can reach and express their decision without coercion, intimidation or threats from any persons who might be opposed to repatriation. Any measures which may be necessary in this regard shall be taken in close consultation with UNHCR and in conformity with relevant standards of law.

ARTICLE 8

Freedom of Choice of Destination

1. The Government of Turkey agrees that the returnees shall be free in principle to return to, and settle in, their former places of residence or any other places of their choice within Turkey. Exceptions to choice of settlement can be based on compelling reasons of security or administrative requirements in the interest of the individual concerned, such as the availability of public services, in which cases he/she shall be duly notified prior to return.
2. Returnees will be entitled to assistance, as required, and their rights shall be respected in the framework of the Turkish law. Returnees shall benefit from the Return to Villages and Rehabilitation Program to facilitate their settlement.

ARTICLE 9

Return in Safety and with Dignity

1. The Parties agree that the voluntary repatriation of refugees under this Agreement shall take place only when there exist conditions conducive to their return in safety and with dignity to places of final destination.
2. Whereas the Authorities in Iraq shall retain responsibility for the safety and security of the repatriating refugees while on the territory of Iraq, including in camps, transit facilities and during convoy movements en route to the designated border crossing points, the Government of Turkey shall be responsible for the safety

and security of the returnees once within the territory of Turkey.

ARTICLE 10

Assurances upon Return

1. The Government of Turkey shall issue, in print as well as, when appropriate, through broadcast media, public messages to welcome and to encourage Turkish citizens present as refugees in Iraq to voluntarily repatriate in safety and dignity, and with the full enjoyment of their rights as citizens of the Republic of Turkey.

2. Refugees shall be notified, prior to return, whether or not they are subject to any pending criminal investigations, charges, or convictions in absentia with regard to any violation of Turkish laws. Any violation regarding the illegal exit from the country, shall be considered under the statute of limitation as stipulated in Article 102 of the Turkish Penal Code.

3. Refugees shall have full access to all legal remedies provided in accordance with Turkish law.

4. The Government of Turkey shall defer the commencement of military service by returnees for a period of 6 months upon their repatriation from Iraq.

5. The Government of Turkey shall ensure that returnees have access to land for settlement and use, in accordance with the relevant national laws.

6. The Government of Turkey shall facilitate, to the extent possible, the recovery and/or restitution to the returnees of land or other immovable or movable property which they left behind. Property records shall be freely accessible and available to all returnees. The rights and benefits of this paragraph will also be applicable to the legal inheritors.

ARTICLE 11

Juridical Status and Equivalency

The Government of Turkey shall accord legal recognition to births, marriages and deaths based on documentation certified by the recognized Iraqi authority or provided by UNHCR, and to adoptions, divorces and other changes of legal status as may be compatible with Turkish law. The Government of Turkey shall recognize to the extent feasible under existing regulations the equivalency of academic and vocational skills, diplomas and certificates obtained by the refugees while in Iraq.

ARTICLE 12

Citizenship

To the extent children of refugees who are born in Iraq do not automatically possess Turkish citizenship, the Government of Turkey shall ensure that it be granted within a reasonable timeframe.

ARTICLE 13

UNHCR's Supervisory Role

UNHCR's leading role in promoting, facilitating and coordinating voluntary repatriation of refugees as well as the monitoring of returnees in order to ensure that repatriation is voluntary and carried out in conditions of safety and dignity shall be fully respected by the other Parties.

ARTICLE 14

UNHCR Access to Refugees and Returnees

1. In order to be able to effectively carry out its international protection and assistance functions, UNHCR shall be granted free and unhindered access in Iraq to all refugees, and in Turkey to all returnees, wherever they may be located. Likewise, all refugees and returnees shall be granted free and unhindered access to UNHCR.

2. The Government of Turkey shall, in particular, extend full cooperation to UNHCR to allow UNHCR to monitor the treatment of returning refugees in accordance with humanitarian and human rights standards, including the implementation of the commitments contained in this Agreement.

3. In order to enable UNHCR to carry out its monitoring functions in accordance with paragraph 1 and 2, the Government of Turkey shall inform UNHCR about every case of arrest, detention and legal proceedings involving returnees and grant UNHCR free access to returnees under arrest or in detention, in accordance with procedures under Turkish law.

4. The access provided to UNHCR under paragraph 1 shall, as appropriate, extend to inter-governmental organizations with which UNHCR may enter into agreements for the implementation of one or more components of the repatriation operation contemplated under this Agreement. The same applies for non-governmental organizations with the consent of the relevant Party.

ARTICLE 15

Information and Sensitization Campaign

1. UNHCR shall, in cooperation with the other Parties, organize a campaign to provide the refugees with objective and accurate information relevant to their repatriation to and reintegration in Turkey so that the refugees shall be able to make the decision to repatriate in full knowledge of the facts. For this purpose, UNHCR shall be given free and unhindered access to areas from which the refugees originate, as well as, in accordance with Article 14, to any returnees living in the same areas.

2. The Parties shall, as appropriate, facilitate visits to Turkey and Iraq for the purposes of providing objective and transparent information, answering questions, communicating conditions of and upon repatriation, and inviting and welcoming the refugees back to Turkey.

3. The Government of Turkey shall take all necessary measures, with a view to creating conditions conducive to the reintegration of returnees in safety and dignity.

ARTICLE 16

Registration, Re-admission and Documentation

1. Pursuant to its mandated responsibility to ensure the voluntary character of the decision to return, UNHCR shall, in consultation with the other Parties, devise the most appropriate means for the interview and registration by UNHCR of those refugees who wish to repatriate.

2. UNHCR shall share all relevant registration data, including the intended place of return, with the Government of Turkey so as to enable where needed the establishment of proper reception and assistance arrangements.

3. The Parties acknowledge the importance of organizing an efficient voluntary repatriation process. To this end, the Government of Turkey shall respond within four weeks with respect to each group not exceeding 250 returnees, including the required notification under Article 10 (2).

4. Duly completed UNHCR Voluntary Repatriation Forms (VRFs), the content of which shall be mutually agreed upon by the Parties, shall be recognized as valid identity documents in Iraq and Turkey and as travel documents for the purpose of the refugees' return to their final destinations in Turkey.

15. For the purpose of receiving and identifying the returnees, an interview will be conducted at the border by the relevant Turkish authorities.

16. The Government of Turkey shall ensure that returnees receive, in a timely manner, identity documents normally accorded to Turkish citizens.

ARTICLE 17

Preservation of Family Unity

1. In accordance with the principle of family unity, UNHCR, in cooperation with the other Parties, shall make every effort to avoid the involuntary separation of families. Where such efforts fail, a mechanism shall be established for their reunification in Turkey.

2. In order to preserve the unity of the family, non-Turkish spouses and/or children of repatriating refugees shall be allowed to enter and remain in Turkey and receive an appropriate legal status. The principle established herein shall also apply to non-Turkish spouses as well as children of deceased Turkish refugees who may wish to enter and remain in Turkey to preserve family links.

ARTICLE 18

Special Measures for Vulnerable Groups

The Parties shall take special measures to ensure that vulnerable groups receive adequate protection, assistance and care throughout the repatriation and reintegration process. This is particularly relevant for single women, minors, the elderly and the handicapped.

ARTICLE 19

Designated Border Crossing Points

The Parties shall agree on border crossing points for organized voluntary repatriation movements.

ARTICLE 20

Immigration, Customs and Health Formalities

1. To ensure the expeditious return of refugees and their belongings, the Authorities in Iraq and the Government of Turkey shall expedite their respective immigration, customs and health formalities carried out at border crossing points.

2. Refugees shall be entitled to bring with them, free from import duties, their personal effects. Refugee families shall be entitled to bring with them, free from import duties, their household effects. Other items will be governed by Turkish law and regulations.

3. In view of health regulations, livestock shall not be allowed to enter into Turkey.

ARTICLE 21

Movement and Security of UNHCR Staff and Resources

1. The Authorities in Iraq and the Government of Turkey shall facilitate the movement of staff and personnel of UNHCR and of its approved implementing partners, as well as vehicles, relief goods and equipment used in the operation into, within and out of Iraq and Turkey. In particular, they shall authorize UNHCR to issue two-way cross-border travel authorizations, the format of which shall be mutually agreed upon by the Parties and UNHCR, to such staff and personnel for the duration of the repatriation operation.

2. UNHCR shall duly inform the other parties of their staff

involved in the operation at any one time, and notify them of changes as appropriate.

13. The Authorities in Iraq and the Government of Turkey shall take all feasible steps with a view to protecting the security and safety of UNHCR staff and all other personnel engaged in the repatriation operation provided for under this Agreement. Security measures shall not compromise the principle of free and unhindered access to refugees and returnees, respectively, including the confidential nature of UNHCR's monitoring contacts with them, as well as the purely humanitarian and non-political nature of UNHCR's operations or the perception thereof.

ARTICLE 22

Re-integration Assistance

The Government of Turkey shall facilitate the sustainable economic and social re-integration of repatriating refugees through the implementation of the Return to Villages and Rehabilitation Program and other assistance measures as necessary.

ARTICLE 23

Relief Goods, Materials and Equipment

1. The High Commissioner shall use his best endeavours to obtain the resources required from the international community to carry out the repatriation operation and, if necessary, to provide re-integration support in addition to the re-integration programme of the Government of Turkey.

2. The Authorities in Iraq and the Government of Turkey shall exempt from the relevant taxes, duties and levies all relief goods, materials, equipment and means of transport destined for use in the repatriation and reintegration operation. They shall expedite the clearance and handling of such resources. Entrance of means of transport into Turkey will be within the framework of the provisional import regime of Turkey.

3. The Authorities in Iraq and the Government of Turkey hereby authorize UNHCR to use UN communications equipment, frequencies and networks and shall, whenever operational requirements make this necessary, facilitate the allocation of other frequencies. The relevant written authorizations for equipment, frequencies and cross-border networks shall be issued to UNHCR.

ARTICLE 24

UNHCR Field Offices

UNHCR may, whenever required for the purpose of a more effective discharge of its responsibilities under this Agreement, establish Field Offices at locations to be agreed with the Party concerned.

ARTICLE 25

Continued Validity of other Agreements

This Agreement shall not affect the validity of any existing agreements, arrangements or mechanisms of cooperation between the Parties. To the extent necessary or applicable, such agreements, arrangements or mechanisms may be relied upon and applied as if they formed part of this Agreement to assist in the pursuit of the objectives of this Agreement, namely the voluntary repatriation and reintegration of refugees.

ARTICLE 26

Resolution of Disputes

Any question arising out of the interpretation or application of this Agreement, or for which no provision is expressly made herein, shall be resolved amicably through consultations between the Parties.

ARTICLE 27

Entry into Force

This Agreement shall enter into force upon approval by the Parties in accordance with their respective procedures, and notification thereof through diplomatic channels.

ARTICLE 28

Amendment

This Agreement may be amended by mutual agreement in writing between the Parties.

ARTICLE 29

Review

Towards the end of the duration of this Agreement, the Parties will evaluate progress achieved and work for setting, by consensus, a timeframe for achieving durable solutions for the Turkish citizens remaining in Iraq as refugees, and thus also allowing for the closure of the relevant camps in Iraq, and in particular the Makhmour camp.

ARTICLE 30

Termination

This Agreement shall remain in force for one year unless extended by mutual agreement between the Parties.

In witness thereof, the authorized representatives of the Parties have hereby signed this Agreement.

DONE at , this day of . 2004, in three originals, in the English language, which will be the authoritative version for interpretation purposes.

For the Government of Turkey
Mr. Daryal Batibay
Ambassador
Director General for Multilateral Political Affairs
Ministry of Foreign Affairs

For the Authorities in Iraq
Mr. Mohammed Jassim Khudayir
Minister of Displacement and Migration

For the United Nations High Commissioner for Refugees
Mr. Raymond Hall
Director of the Regional Bureau for Europe

End negotiated text.

14. (U) Assistant Secretary Dewey has cleared this message.
DEUTSCH